

Classifications of Real Property Study Committee

Study Assignment

A study of real property classifications and the criteria used to establish such classes of property. The Legislature is empowered to classify properties within school districts into separate classes for purposes of school taxation pursuant to Article VIII, section 15 of the South Dakota Constitution. The study shall evaluate the existing classifications of property and determine whether additional classifications of property should be created. The feasibility of establishing property classifications for cropland, noncropland (grazing), commercial, recreation, and speculation should be evaluated. Furthermore, a review of the criteria or thresholds used to determine whether property may be classified as agricultural property should be examined. No study involving the agricultural income valuation system should be included.

Summary of Interim

During the first meeting on June 28, Fred Baatz, gave an overview of the changes in the property assessment and taxation system in South Dakota during the last twenty years. In 1989, a major overhaul of property taxation system occurred and the property tax freeze was implemented. Property was required to be assessed at 85 percent of its taxable value and the maximum property tax levies for local governments were adjusted.

Harvey Kistler and Kyle Helseth, who analyze property sales for the Department of Revenue and Regulation, stated that the motivation of buyers and sellers of agricultural property over the past 40-50 years has not really changed on either side of the river. They presented data from 508 recent transfers (last nine months) of agricultural property from the following counties: Butte, Custer, Dewey, Haakon, Harding, Jackson, Meade and Perkins. Of the 508 sales, 424 of the sellers and 395 of the buyers were South Dakota residents. The vast majority of the out-of-state buyers were children of South Dakota residents. The average size of acreage transferred was 808 acres. The smallest parcel was 5 acres and the largest parcel was 13,150 acres, which was purchased by a neighboring ranch owner. Of the 508 sales, 269 were transfers between related parties and 239 were arms-length transactions. Ninety-two percent of the agricultural property transferred was to South Dakota residents who were going to actively operate the property. The majority of out-of-state sellers had been South Dakota residents who had inherited the land. Historically, the buyers are relatives and neighbors and the out-of-state buyers are typically from bordering states.

Michael Kenyon, from the Department of Revenue and Regulation, spoke about changes in agricultural land values from 2001 to 2004 based on information obtained from the National Agricultural Statistics Service (NASS). In 2001, the NASS value of agricultural land in South Dakota was \$15 billion compared to an assessed value of \$12.7 billion. In 2004, the NASS value had grown to \$20.8 billion compared to an assessed value of \$15.5 billion. He noted over the last four years the NASS value had grown by \$5.3 billion, whereas the assessed values only increased by \$2.3 billion.

Don Guthmiller, Jack Davis, Stacy Hadrick, and Bart Krautschun who are extension educators or extension specialists, distributed a summary of SDSU's annual Farm Real Estate report. According to the survey, cropland and rangeland values per acre have doubled since 1998 and nearly tripled since 1991. Over the past two to four years, pastureland and rangeland have increased in value more than cropland in the northeastern part of the state while west of

the James River pastureland is being converted to cropland. They stated that if land has a hunting value, it often sells for 20 to 25% more than normal. According to the survey, agricultural land values increased 20.3% from 2004 to 2005, exceeding the 17.1% increase from 2003 to 2004. In areas of the state that are experiencing drought, some individuals are buying agricultural land just to get access to water.

The second meeting of the interim committee was on Thursday, September 8, 2005. Doug Hansen and Paul Coughlin, from the Department of Game, Fish and Parks, presented information concerning the types of land that the department owns and manages, the tax status of the land, and the acres enrolled in private shooting preserves.

Brian McGinnis, Third Planning & Development District; Phil Kappen, Minnehaha County Assistant Planning Director; and Sam Trebilcock, Transportation Planner for the City of Sioux Falls, provided a primer to the committee on planning and zoning and how it may relate to agricultural land. They stated that in the 1970's zoning was first initiated, especially in the eastern part of the state. Today, a total of forty-six counties utilize zoning. However, only six West River counties utilize zoning while only four East River counties do not utilize zoning.

Carter Anderson, State Director of the National Agricultural Statistics Service (NASS), stated that the NASS is the data collection arm for the U.S. Department of Agriculture. Over the past six years the value of South Dakota's cropland increased 55% and pasture land increased 53%. Over the same time period, cash rents for cropland increased 27% and pasture land increased 12%. He stated that 3,500 surveys are annually mailed to farmers and ranchers and the NASS works to obtain a minimum of thirty responses per county. The descriptive statistics include the averages for the most recent year, the three year average, the minimum and maximum value, and the most frequently reported value.

Joel Wendell, Fall River and Shannon County Director of Equalization, stated that Fall River County currently assesses property at 99.5% of its value based on the market data that the county is permitted to use pursuant to state law. In reality, Fall River County is at 41.6% of its market value. Agricultural land valuations remain very stable because of the NA-Z, 150% and 70 acre rules. The nonagricultural property in Fall River County is actually assessed at less than 70% of its market value, however, because of the 150% rule, the sales to the assessment shows that the nonagricultural property is assessed at more than 99% of its market value. He stated that the NA-Z and 150% rules are often confused; however, the rules are different concepts and formulas. Many counties do not have enough "good" agricultural sales to value agricultural property; therefore counties must either use the income approach or bridge to other counties to value property. Dick Kallemeyn, the Minnehaha County Director of Equalization, reported that Minnehaha County has not had a good agricultural sale this year or last year because of the NA-Z, 150%, and 70 acre rules.

The primary focus of the November 3, 2005, meeting was to discuss the draft legislation. The committee, several directors of equalization, and interested parties discussed how creating additional classifications of property would affect the assessment process and the taxation of agricultural property if such property was divided into more than one class.

The committee reviewed three legislative proposals and approved two. Each draft provided an alternative proposal for creating additional classifications of property.

Listing of Legislation Adopted

1. An Act to create additional classifications of property and to revise certain provisions concerning the taxation of certain property.

This legislation creates two classes of agricultural land. Currently, the standard for qualifying as agricultural land is whether the land meets two of the three criteria established by SDCL 10-6-31.3. In the proposed draft, class one land would have to meet all three criteria and class two land would have to meet two of the three criteria. This draft also increases the minimum number of acres that a piece of land would have to comprise before it meets criterion of a minimum size to qualify as class one land. The method to measure farm income that is the basis for one of the criteria is also amended. A rate of taxation for the general fund levy of schools for each class of agricultural land is also established. Finally there is some clarification and cleanup of several code sections.

2. An Act to permit the immediate reclassification of nonagricultural acreage property under certain circumstances.

If agricultural land is purchased at a price that causes the land to be classified as a nonagricultural acreage (NA-Z) and the land is immediately converted to another use that would result in the property in having an assessed value that is higher than the NA-Z assessed value, the assessor may immediately reclassify such property to another classification pursuant to this legislation.

Summary of Meeting Dates & Places and Listing of Committee Members

The committee met on June 28, September 8, and November 3. The committee meetings were located in Pierre.

Committee Members Were: Senator Jim Lintz, Chair, Representative Hal Wick, Vice Chair; Senators Jim Hundstad, Kenneth McNenny, and Jim Peterson; Representatives Joel Dykstra, Art Fryslie, Thomas Glover, Dale Hargens, Gordon Howie, Barry Jensen, Alice McCoy, Casey Murschel, Paul Nelson, Larry Rhoden, and Charles Turbiville.

Staff members were: Fred Baatz, Principal Research Analyst and Kris Schneider, Legislative Secretary.